

REMARKS/ARGUMENTS

Claims 1-19 are pending. This paper is part of a response to a Office Action mailed November 10, 2010. Claims 1-19 stand rejected under 35 USC 112 second paragraph. Claims 1-19 stand rejected on the ground of non-statutory double patenting due to the previously presented terminal disclaimer not be accepted.

Claim Rejections under 35 USC 112 2nd paragraph:

Claims 1-19 stand rejected under 35 USC 112 2nd paragraph. The claims have been rejected for calling out elements such as “means for locating” “Means for modifying” and so on that are means plus function limitations that invoke 35 USC 112 6th paragraph, which the Examiner does not find disclosed in the written description. The Examiner has required that either the claims or the specification be amended to expressly recite the structure(s) disclosed in the written description.

The Applicant disagrees with this Claim Rejection. The Applicant asserts that the principle of prosecution estoppel needs to be applied fairly and equally both for patent representatives, and for Patent Examiners. As the amendment to the specification clarifies, this patent application is descended from two parent applications which have issued as patents 6,792,535 and 6,434,701, both of which include claims referring to the specific means plus function elements that the Examiner has rejected. The parent patent were properly examined and consequently, there are not one, but two separate times when similar claims have been deemed fit by the standards of 25 USC 112 2nd and 6th paragraphs. These Claims are allowable and the Examiner is requested to remove this rejection from these Claims.

Claim Rejections on the Grounds of Non-statutory Doubling Patenting:

Claims 1-19 stand rejected on the ground of non-statutory double patenting due to the previously presented terminal disclaimer not be accepted. A new terminal disclaimer accompanies this paper that is signed by Gregory Scott Smith, who filed this patent application.

Summary of the Remarks

Applicant invites the Examiner to contact either Gregory Smith or Earle Jennings as listed below for a telephonic interview if so doing would expedite the prosecution of the application.

Very respectfully submitted,

/Earle Jennings/
Earle Jennings

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